

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN – MILWAUKEE DIVISION

QUANTUM COLOR GRAPHICS, LLC,

Plaintiff,

v.

Case No.:

BEST GRAPHICS GROUP PROPERTIES,
LLC

Defendant.

COMPLAINT

Plaintiff Quantum Color Graphics, LLC (“**Quantum**”), by and through its counsel, Polsinelli PC, as and for its Complaint against Defendant Best Graphics Group Properties, LLC (“**Best Graphics**”), states as follows:

PARTIES

1. Plaintiff Quantum is an Illinois corporation with its principal place of business in Morton Grove, Illinois.
2. Defendant Best Graphics is a Wisconsin corporation with its principal place of business in Waukesha, Wisconsin.

JURISDICTION AND VENUE

3. Jurisdiction is proper in this court pursuant to 28 U.S.C. § 1332 because the plaintiff is a citizen of Illinois and defendant is a citizen of Wisconsin, and the matter in controversy exceeds \$75,000 exclusive of interest and costs.

4. Venue in this District is proper pursuant to 28 U.S.C. § 1391 because defendant resides in this District.

GENERAL ALLEGATIONS

5. On March 26, 2018, Quantum and Best Graphics entered into a Machinery Contract (the “**Contract**”) for the purchase, delivery, installation, and training for a Refurbished 1995 Iberica JRK 105 Die Cutter with Stripping and Blanking (“**Iberica Die Cutter**”). A true and correct copy of the Contract is attached hereto as **Exhibit A**.

6. On March 26, 2018, Quantum issued its Purchase Order for the Iberica Die Cutter under Purchase Order No. M-2839 (the “**Purchase Order**”), a true and correct copy of which is attached hereto as **Exhibit B**.

7. On March 29, 2018, Best Graphics issued its Invoice No. 60237-1 to which Best Graphics attached Quantum’s Purchase Order No. M-2839, and under which Best Graphics billed to Quantum the amount of \$54,250.00 as the initial 25% deposit upon order for the Iberica Die Cutter. A true and correct copy of Best Graphics’ Invoice No. 60237-1 is attached hereto as **Exhibit C**.

8. Pursuant to the Contract, Quantum was required to pay 25% of the purchase price upon order, and 50% of the purchase price prior to shipment. (Contract, Exh. A; Invoice, Exh C.)

9. On or about June 11, 2018, Best Graphics physically delivered the Iberica Die Cutter to Quantum’s plant facility in Morton Grove, Illinois pursuant to the Contract. At the time of delivery, the Iberica Die Cutter was in three large pieces, and various component parts for Best Graphics to assemble, install and make operational at the Quantum facility.

10. Best Graphics’ represented that the Iberica Die Cutter would be fully installed and operational by early August 2018, or roughly within 6 to 8 weeks from delivery.

11. In reliance on Best Graphics' representations, the Contract and the Purchase Order, Quantum paid 75% of the Contract price to Best Graphics, a total of \$162,750.00, as required under the Contract, for the Iberica Die Cutter.

12. Pursuant to Section 7 of the Contract, Best Graphics warranted that the refurbished Iberica Die Cutter would be "free from defects in material or workmanship under normal use and conditions." (Contract, Exh. A, § 7.)

13. Section 8 of the Contract provides that Best Graphics, upon written notice from Quantum of a breach of warranty, shall "(1) use its best efforts to correct in all material respects the breach as soon as is reasonably possible, or (2) refund amounts paid [Best Graphics] for the Machinery to [Quantum]..." (Contract, Exh. A, § 8.)

14. Quantum relied on Best Graphics' representations and warranty as a basis for entering into the Contract and purchasing the Iberica Die Cutter.

15. In the months that followed delivery on June 11, 2018, Best Graphics was unsuccessful in its repeated attempts to install the Iberica Die Cutter in proper, safe, and consistent working order as was required under the Contract and Purchase Order.

16. On November 27, 2018, five months after delivery and repeated unsuccessful attempts by Best Graphics to properly install the Iberica Die Cutter, Quantum sent a letter to Best Graphics demanding: (1) termination of the Contract; (2) a refund of all sums paid by Quantum to Best Graphics; (3) payment of Quantum's direct costs incurred in the course of Best Graphics' failed attempts to install the Iberica Die Cutter, and; (4) prompt removal of the Iberica Die Cutter from its facility (the "**November 27, 2018 Letter**", attached hereto as **Exhibit D**).

17. On December 4, 2018, Best Graphics responded to Quantum's November 27, 2018 Letter seeking more time to properly install the Iberica Die Cutter and make it operable (the "**December 4, 2018 Email**", attached hereto **Exhibit E**).

18. On December 12, 2018, Quantum sent a letter to Best Graphics agreeing to Best Graphics' request for additional time and outlining the final timeline for Best Graphics to perform under the Contract (the "**December 12, 2018 Letter**", attached hereto as **Exhibit F**).

19. Best Graphics agreed to and fully executed Attachment A to the December 12, 2018 Letter (the "**Final Installation Plan**"), obligating Best Graphics to meet the following terms by January 15, 2019, otherwise Quantum would require removal of the Iberica Die Cutter and a full refund of the purchase price:

- a. Best Graphics will install the new Contactor and Thermo Protection Device 12/13/2018 – 12/15/2018;
- b. Best Graphics will inspect and test the Doubles Detector and the new Blanker Delivery Pile Height Sensor and ensure die cutter/blanker is operational 12/13/2018 – 12/15/2018;
- c. Best Graphics will finish the setup of the tooling for the 44 out 17pt pvc card job, using existing tooling as (specified by Best Graphics and built by Jonco Dies – and run the plastic card job for at least 3 consecutive hours without any trip offs due to mechanical, electrical or tooling issues 12/07/2018 – 12/21/2018;
- d. Best Graphics will test and ensure consistent operations of the Universal Blanking Frame (Full Sheet Delivery) that was purchased with the machine;
- e. Best Graphics will test and ensure consistent operations of the Curtain (Inserting of tie sheets) during blanketing; and
- f. Best Graphics will correct all additional mechanical, electrical or tooling issues that may arise during this installation period 12/22/2018 – 01/07/2019.

20. By January 15, 2019, Best Graphics was unsuccessful in making the Iberica Die Cutter operational.

21. On January 17, 2019, Quantum sent a letter to Best Graphics seeking termination of the Contract, refund and payment, and removal of the Iberica Die Cutter from its facility (the “**January 17, 2019 Letter**”, attached hereto as **Exhibit G**).

22. The Iberica Die Cutter remains inoperable.

23. The inoperable condition of the Iberica Die Cutter triggers Best Graphics’ obligations under the warranty of parts and labor expressly provided under the Contract and the Purchase Order.

24. Since January 15, 2019, Best Graphics has made no further attempts to put the Iberica Die Cutter into operable condition.

25. Best Graphics has not refunded Quantum the purchase price or removed the Iberica Die Cutter.

26. The Iberica Die Cutter that Best Graphics delivered to Quantum’s facilities is defective and is a chronically inoperable machine.

27. It is believed, and therefor averred that the parts and labor Best Graphics used or provided to install the Iberica Die Cutter lacked good quality and workmanship.

28. To date, Quantum has paid \$162,750.00 to Best Graphics under the Contract.

29. To date, Quantum has incurred a total of \$101,420.00 in direct expenses in the repeated and unsuccessful attempts by Best Graphics to install the Iberica Die Cutter into proper operable service at Quantum’s facility.

FIRST CLAIM FOR RELIEF

Breach of Contract

30. Quantum restates and realleges Paragraphs 1 through 29, inclusive as though fully set forth herein.

31. The Contract and Purchase Order comprise a valid and enforceable contract.

32. Quantum has fully performed its obligations pursuant to the Contract.

33. Best Graphics breached the Contract and Purchase Order by failing to properly install the Iberica Die Cutter in operable condition at Quantum's facility.

34. Best Graphics has breached the Contract and Purchase Order by failing and refusing to acknowledge that the parts and labor it provided for the Iberica Die Cutter are defective.

35. Best Graphics has further breached the Contract and Purchase Order by failing to remove the Iberica Die Cutter from Quantum's facility and refund Quantum the amounts paid to Best Graphics for the Iberica Die Cutter.

36. Best Graphics' breaches of the Contract and Purchase Order proximately caused Quantum to suffer significant damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Quantum Color Graphics, LLC respectfully requests that this Honorable Court enter an order finding in favor of Quantum on the First Claim for Relief and providing the following relief:

a. Awarding Quantum money damages in an amount in excess of \$250,000.00, but to be determined at trial, representing Quantum's cost paid for the Iberica Die Cutter and direct expenses incurred in relation to the attempt to successfully install the Iberica Die Cutter;

b. Best Graphics' prompt removal of the Iberica Die Cutter and all components thereof from Quantum's facility;

c. Pre- and post-judgment interest;

- d. Awarding Quantum its attorneys' fees and costs pursuant to statute or equity; and
- e. Such other and further relief that the Court deems just and proper.

SECOND CLAIM FOR RELIEF

Breach of Warranty

37. Quantum restates and realleges Paragraphs 1 through 36, inclusive as though fully set forth herein.

38. Pursuant to Section 7 of the Contract, Best Graphics represented and warranted the Iberica Die Cutter would be free from defects in material or workmanship. (Contract, Exh. A, § 7.)

39. Quantum relied on the representation and warranty as a basis for the Contract and purchase.

40. Best Graphics breached the warranty by failing to deliver an Iberica Die Cutter that was free from defects in material and workmanship.

41. Best Graphics has further breached the Warranty by failing to remove the Iberica Die Cutter from Quantum's facility and refund Quantum the amounts paid to Best Graphics for the Iberica Die Cutter.

42. Best Graphics' breach of the warranty proximately caused Quantum to suffer damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Quantum Color Graphics, LLC respectfully requests that this Honorable Court enter an order finding in favor of Quantum on the Second Claim for Relief and providing the following relief:

- a. Awarding Quantum money damages in an amount in excess of \$250,000.00, but to be determined at trial, representing Quantum's cost paid for the Iberica Die Cutter and direct expenses incurred in relation to the attempt to successfully install the Iberica Die Cutter;
- b. Best Graphics' prompt removal of the Iberica Die Cutter and all components thereof from Quantum's facility;
- c. Pre- and post-judgment interest;
- d. Awarding Quantum its attorneys' fees and costs pursuant to statute or equity; and
- e. Such other and further relief that the Court deems just and proper.

Date: March 14, 2019

Respectfully submitted,

QUANTUM COLOR GRAPHICS LLC

By: /s/ Rodney L. Lewis

One of its Attorneys

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